

PT 01-66

Tax Type: Property Tax

Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

HOLY TEMPLE CHURCH
OF G-D IN CHRIST
OF FREEPORT,
APPLICANT

v.

ILLINOIS DEPARTMENT
OF REVENUE

No. 00-PT-0069
(98-16-0112)
P.I.N: 18-14-30-359-006

RECOMMENDATION FOR DISPOSITION
PURSUANT TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT

APPEARANCES: Mr. James G. Madden of Madden & Sisler on behalf of the Holy Temple Church of G-D in Freeport (hereinafter the "applicant"); Mr. Michael P. Bald, State's Attorney of Stephenson County, on behalf of the Stephenson County Supervisor of Assessments (hereinafter the "Supervisor")

SYNOPSIS: This matter comes to be considered pursuant to applicant's timely motion for summary judgment and raises the issue of whether any or all parts of real estate identified by Stephenson County Parcel Index Number 18-14-359-006 (hereinafter as the "subject property") was "used exclusively for religious purposes" during the 1999¹

1. Applicant's motion seeks relief for 1999 and tax years subsequent thereto. However, the only exemption complaint that is presently before me is the one that pertains to the 1999 assessment year.

Each tax year constitutes a separate cause of action for exemption purposes. People ex rel. Tomlin v. Illinois State Bar Ass'n, 89 Ill. App.3d 1005, 1013 (4th Dist.

tax year, as required by Section 15-40 the Property Tax Code (35 **ILCS** 200/1-1, *et seq*) (hereinafter the “Code”).

The underlying controversies arise as follows:

Applicant filed an Application for Property Tax Exemption with the Supervisor on January 12, 2000. The Supervisor reviewed the Application and recommended to the Illinois Department Of Revenue (hereinafter the “Department”) that the requested exemption be granted. The Department reviewed the Board’s recommendations and issued a determination, dated June 2, 2000, denying the requested exemption on grounds of insufficient documentation.

Applicant filed a timely appeal to this denial and later agreed to a Stipulation of Facts with the Stephenson County State’s Attorney, acting as duly qualified agent of the Supervisor. It later filed that stipulation and an accompanying motion for summary judgment, in which the supervisor joined. Following a careful review of the motion and its supporting documentation, I recommend that applicant’s motion for summary judgment be granted and the Department’s determination accordingly reversed.

FINDINGS OF FACT:

1. The Department’s jurisdiction over these matters and its positions therein are established by its determinations in this matter, issued by the Office of Local Government Services on June 22, 2000. Administrative Notice.

1980). For this reason, applicant may be required to relitigate its entitlement to a property tax exemption on an annual basis. Jackson Park Yacht Club v. Department of Local Government Affairs, 93 Ill. App.3d 542 (1st Dist. 1981); Fairview Haven v. Department of Revenue, 153 Ill. App.3d 763 (4th Dist. 1987). Therefore, the exemption claims for tax years subsequent to 1999 are not properly raised in this proceeding and shall receive no further consideration herein.

2. The Department's position in this matter is that applicant's initial submission did not contain sufficient documentation from which an exemption could be granted. *Id*
3. Applicant and the Supervisor have stipulated that:
 - A. Applicant is an Illinois not-for-profit corporation organized for purposes of promulgating the Christian faith and engaging in Christian charity throughout the greater Freeport area. Stip. p. 1.
 - B. Applicant obtained ownership of the subject property on April 22, 1993 and maintained its ownership interest therein throughout the 1999 assessment year. Stip. p. 2.
 - C. The subject property is located at 506-508 W. Ringold, Freeport, IL and situated immediately adjacent to applicant's main church facility. Stip. p. 1.
 - D. Applicant's main church facility, situated on real estate identified by Stephenson County Parcel Index Number 18-14-30-359-002, was exempt from real estate taxation throughout the 1999 assessment year. Stip. p. 2.
 - E. The subject property is improved with a building that contains two floors and a basement. Stip. pp. 1-2.
 - F. Applicant used the basement and first floor for church meetings and storage of church property throughout 1999. *Id.*
 - G. Applicant used the second floor as a homeless shelter throughout 1999. *Id.*
 - H. Applicant did not derive any rental income or other form of remuneration from operation of the homeless shelter during 1999. Stip. p. 1.
 - I. All of the uses described above furthered the mission and work of applicant's main church facility. Stip. p. 2.

CONCLUSIONS OF LAW:

Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c). The adversarial parties whose pecuniary interests are affected by the outcome herein have entered into a stipulation that removes all issues of material fact from this case. Therefore, the only remaining source of controversy herein is a legal question, that being whether the parties' stipulation is legally sufficient to establish that the subject property was in exempt use during 1999.

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted the Property Tax Code, (35 ILCS 200/1-1 *et seq*) (hereinafter the "Code"). The Code provisions that govern disposition of this case are found in Sections 15-40 and 65(a) which provide, in pertinent part, as follows:

200/15-40. Religious purposes, orphanages, or school and religious purposes.

§ 15-40. Religious purposes, orphanages, or school and religious purposes. All property used exclusively for religious purposes ... and not leased or otherwise used with a view to profit, is exempt ...[.]

35 ILCS 200/15-40.

200/15-65. Charitable purposes

§ 15-65. Charitable purposes. All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity.

35 ILCS 200/15-65, 65(a).

Statutes conferring property tax exemptions are to be strictly construed, with all facts construed and debatable questions or doubts resolved in favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Moreover, applicant bears the burden of proving by clear and convincing evidence that the property it is seeking to exempt falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

Here the relevant statutory exemptions pertain to: (1) properties “used exclusively for religious purposes ...” (35 ILCS 200/15-40); and, (2) properties owned by “institutions of public charity” that are actually and exclusively used for charitable or beneficent purposes. (35 ILCS 200/15-65, 65(a)). The word “exclusively” when used in Sections 15-40 and 15-65 means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132,

136-137 (1911). “Charitable or beneficent purposes” are those which, by definition, benefit an indefinite number of people and persuade them to an educational or religious conviction that benefits their general welfare or somehow reduces the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893).

Technical distinctions between the charitable exemption, which requires both exempt ownership and exempt use (Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968)), and the religious exemption, which, in the present context,² requires only exempt use (People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, *supra*), can become blurred if dispensing charity forms an integral part of a religious organization’s mission. First Presbyterian Church of Dixon v. Zehnder, 306 Ill. App. 3d 1114, 1117 (2nd Dist. 1999). Here, the parties have stipulated that one of applicant’s central organizational purposes is to engage in charitable works throughout the community that it serves. Thus, any use of the subject property which facilitates that goal, such as the homeless shelter,³ qualifies as an exempt use under the hybrid analysis set forth in First Presbyterian Church of Dixon, *supra*. Therefore, the Department’s determination as to the area of the subject property used as a homeless shelter should be reversed.

With respect to the areas of the subject property not used as a homeless shelter, it is first noted that applicant used all of these areas for church meetings and storage of

2. The segment of Section 15-40 which governs the exemption of parsonages, or housing facilities provided for employed clergy, does require that the property be in exempt ownership. *See*, 35 ILCS 200/15-40. However, because the subject property was not used as a parsonage, that portion of Section 15-40 is inapplicable herein.

3. It is conceivable that that operation of a homeless shelter would violate the prohibitions against leasing or other use for profit contained in Sections 15-40 and 15-65. However, applicant neither leased nor derived any income from the operation of the particular shelter at issue herein. Therefore, such statutory prohibitions do not apply in this case.

church related property throughout 1999. Such uses qualify as “exclusively religious” because they were reasonably necessary to promote the religious activities taking place at applicant’s main church facility. *Accord, Evangelical Hospitals Corporation v. Department of Revenue*, 233 Ill. App.3d 225 (2nd Dist. 1991). Therefore, the Department’s initial determination concerning these areas should be reversed.

In summary, the Department’s initial denial was predicated solely on evidentiary deficiencies within applicant’s original exemption application. The adversarial parties whose pecuniary interested are impacted by the outcome herein cured those deficiencies via the stipulation they submitted in support of the present motion for summary judgment. Therefore, the Department’s initial determination in this case should be reversed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by Stephenson County Parcel Index Number 18-14-30-359-006 be exempt from 1999 real estate taxes under Sections 15-40 and 15-65(a) of the Property Tax Code.

10/10/01
Date

Alan I. Marcus
Administrative Law Judge